

IN THE UNITED STATES DISTRICT COURT

FILED
BILLINGS DIV.

FOR THE DISTRICT OF MONTANA

2010 MAR 12 PM 12 06

BILLINGS DIVISION

PATRICK E. DUFFY, CLERK
BY _____

DEPUTY CLERK

JOHN ROBERT DEMOS)	CV-10-15-BLG-RFC-CSO
)	
Petitioner,)	
)	
vs.)	
)	ORDER ADOPTING FINDINGS
)	AND RECOMMENDATIONS OF
UNITED STATES OF AMERICA, et al.,)	U.S. MAGISTRATE JUDGE
)	
)	
Respondents.)	
)	

United States Magistrate Judge Carolyn Ostby has entered Findings and Recommendation (*Doc. 3*) with respect to Demos's motion to proceed in forma pauperis (*Doc. 2*) and his petition for writ of habeas corpus (*Doc. 1*). As with Demos's prior petitions, Magistrate Judge Ostby recommends the motion to proceed in forma pauperis be denied and that the petition be dismissed because this Court lacks jurisdiction over his claims as he is serving a prison sentence under a judgment imposed by a court of the State of Washington. Judge Ostby further recommends that a certificate of appealability be denied because any appeal of this order would be in bad faith.

Upon service of a magistrate judge's findings and recommendation, a party has 14 days to file written objections. 28 U.S.C. § 636(b)(1). In this matter, no party filed objections to the Findings and Recommendation. Failure to object to a magistrate judge's findings and recommendation waives all objections to the findings of fact. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1999). However, failure to object does not relieve this Court of its burden to review de novo the magistrate judge's conclusions of law. *Barilla v. Ervin*, 886 F.2d 1514, 1518 (9th Cir. 1989).

Demos has a history of filing frivolous petitions—this one is no different. After a review of the record and applicable law, this Court finds Magistrate Judge Ostby's Findings and Recommendation are well grounded in law and fact and adopts them in their entirety.

Accordingly, IT IS HEREBY ORDERED:

1. Demos's motion to proceed in forma pauperis (*Doc. 2*) is DENIED and the Petition (*Doc. 1*) is DISMISSED.
2. A certificate of appealability is DENIED.
3. The Court CERTIFIES, pursuant to Fed. R. App. P. 24(a)(4)(B), that any appeal from this disposition would be made in bad faith,

The Clerk of Court is directed to enter, by separate document, a judgment of dismissal and notify the parties of the entry of this Order.

The Clerk of Court shall notify the parties of the entry of this Order.

DATED the 12 day of March 2010.


RICHARD F. CEBULL
UNITED STATES DISTRICT JUDGE